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Supreme Court, U.S.
FILED

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No. _____

In The

Supreme Court of the United States

October Term, 1996

Colonel DONALD I. REHMAN (Ret.),

Petitioner,

vs.

ECC International Corp., et al.,

Respondents.

On Petition For Writ Of Certiorari To The Supreme Court Of Florida

PETITION FOR WRIT OF CERTIORARI

COLONEL DONALD I. REHMAN (RET.)
1390 Windy Ridge Court
Longwood, FL 32750
(407) 260-0690
Petitioner Pro Se

51 pp's
$10

QUESTIONS PRESENTED

1. Whether the refusals of a United States Citizen, to participate in, and/or to otherwise assist his defense contractor employer, in the perpetration of defense contract fraud against the United States Government, are constitutionally protected employee speech/activity under the First, or any other, Amendment to, or provision in, the United States Constitution.

2. When a Defense Contractor employee, who is retaliated/discriminated against in the terms and conditions of employment, to include retaliatory discharge, for repeatedly refusing to participate in and otherwise assist his employer in committing defense contract fraud against the United States Government, does the employee's actions constitute "protected activity" and a public policy exception to the at-will-employment doctrine, such that retaliatory discharge under those circumstances is a common law tort for wrongful termination of employment, which can be remedied by a civil tort action for damages and other relief.

3. Under the at-will-employment doctrine, can an employee be fired by his employer for refusing to commit and/or to assist his employer in committing, fraud against the United States Government.

QUESTIONS PRESENTED – Continued

4. Whether the verbal and written disclosures by Colonel Donald I. Rehman (Ret.) to his former employer, ECC International Corp., about the defense contract fraud against the United States Government, taking place at the ECC International Corp workplace in Orlando, Florida, and his refusals to take part therein, during Rehman's employment there, constitute Constitutionally protected speech/actions under the First, or any other Amendment, such that termination of at-will-employment, in retaliation for Rehman's actions, is a prohibited act because it is contrary to public policy or other doctrine/principle of law.

5. Is the at-will-employment doctrine partially unconstitutional if it can be used to discharge/terminate an employee who complains to his employer and documents defense contract fraud being perpetrated by the employer against the United States Government.

6. Whether there exists, applicable in every State of the United States, even without specific state statute and/or any state case law to the contrary, a common law tort, or Prima Facie Tort, of *wrongful termination of employment*, as a public policy exception to the at-will-employment doctrine, so as to protect the speech and actions of whistle-blowers, who disclose, internally to their employer, and/or externally to the Government, defense contract fraud being perpetrated by their employer against the United States Government.

QUESTIONS PRESENTED – Continued

7. Do Retired Regular Army Officers, of the United States Armed Forces, have a continuing responsibility to the United States Government, as a public policy duty/mandate:

- to refrain from participating in or otherwise assisting in Private Sector fraud against the Federal Government, and
- a duty to "blow the whistle" on it/expose it; and

is such a duty Constitutionally "protected activity".

8. Do United States Citizens:

- under the Ninth Amendment to the United States Constitution,
- or under other Constitutional provision(s),
- or under "COMMON LAW",

have the Constitutional right, when they are hired as an employee, to have the opportunity to perform their work in a "fraud free" workplace; and if an employer does not operate its workplace(s) in a "fraud free" manner, thereby resulting in specific "damage(s)" to the employee, can that give rise to a "common law," or other, Cause of Action in tort, or otherwise, for recovery of damages by the employee(s) against the employer.

9. Did the Trial Court Successor Judge err when she dismissed Rehman's state claim Whistle-blower Civil action:

QUESTIONS PRESENTED – Continued

- Without addressing at all the "COMMON LAW" provisions under which Rehman had instituted that lawsuit and had so indicated in his Complaint,

- By declaring on one hand that Florida State Statute § 448.101, State Whistle-blower Act, cannot apply to Rehman's Whistle-blower lawsuit, then upon declaring its presumed inapplicability, saying that statute cannot be interpreted to apply to individual defendants; so on that basis the Trial Court dismissed them all; despite Florida Case Law which holds that a company's management is liable for tort as individuals regardless whether or not their employer is liable.

- By ignoring and making no ruling upon Rehman's timely raised "Supremacy" of Federal Law assertion, that 28 U.S.C. § 1367(d), tolled the Florida State Statute of Limitations for Rehman's Whistle-blower claim.

10. Whether Florida citizens who have civil cases in Florida State Courts have any entitlement to protection under the "Supremacy Clause" of the United States Constitution Article VI, such that Florida State Courts are required to recognize, adhere to, and abide by, the tolling provision for State Statutes of Limitations which is mandated by 28 U.S.C. § 1367(d).

QUESTIONS PRESENTED – Continued

11. Whether a plaintiff's case in a Florida State Trial Court can automatically be dismissed upon a defendants' Motion to Dismiss supposedly based upon Florida State Statute of Limitations, but that Court intentionally not considering the plaintiff's timely filed objection which asserts that the provisions of 28 U.S.C. § 1367(d) tolled the Florida State Statute of Limitations.

12. Whether, when a Federal Trial Court denies its leave to permit a plaintiff to file a supplemental jurisdiction State whistle-blower claim, thereby declining to exercise jurisdiction over such a State claim, even though it is related to a 31 U.S.C. § 3730(h) claim over which the court has exercised original Federal jurisdiction, does the State whistle-blower claim still retain an identification as a Supplemental Jurisdiction claim such that the tolling provisions of 28 U.S.C. § 1367(d) will apply if it is then timely filed in a State Court.

13. If a Supplemental Jurisdiction state claim is dismissed by a Federal District Court without prejudice, because that court declines to exercise jurisdiction over it, and that dismissal is timely appealed to a Federal Appellate Court, does the provisions of 28 U.S.C. § 1367(d) continue to toll the State Statute of Limitations until 30 days after the Federal Appellate Court's final action in that appeal.

QUESTIONS PRESENTED – Continued –

14. Whether there is a Constitutional guarantee to due process which entitles litigants, in any Federal and State Court, to have their cases heard by presiding judges who are unbiased and who possess the attributes of a qualified and capable Judge; and whether there is a nullification of due process and/or nullification of other Constitutional guarantees under the following circumstances:

> The judge whom a pro se's case is in progress before, is convicted of a criminal offense in a public trial by jury, resulting in enormous pre-trial and post-trial unfavorable publicity to the judge, and adverse public reaction against the judge; and whether this results in the judge losing some or all of the judicial attributes which are guaranteed to litigants under due process, thereby mandating there be judicial disqualification from the pro se's case.

LIST OF ALL PARTIES

ECC INTERNATIONAL CORP.,

A Defense Contractor having an

Orlando, Florida Facility

EVELYN J. ANDREWS,

individually and in her ECC capacity,

DANIEL CARRILLO, Jr.,

individually and in his ECC capacity,

GEORGE L. FRYE Jr.,

individually and in his ECC capacity,

AJIT W. HIRANI,

individually and in his ECC capacity,

GEORGE W. MURPHY,

individually and in his ECC capacity,

ANTHONY C. POLK,

individually and in his former ECC capacity, and

JERRY D. ROBBINS,

individually and in his ECC capacity.

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PETITION FOR WRIT OF CERTIOARI

Petitioner pro se, Colonel Donald I. Rehman (Ret.) [hereinafter: "Rehman"], respectfully petitions for a writ of certiorari to review the final judgments, of the Circuit Court of the Ninth Judicial Circuit, in and for Orange County, Florida, [hereinafter: "Trial Court"], which unjustly dismissed Rehman's State claim whistle-blower lawsuit, improperly denied two (2) Trial Court Motions by Rehman for the Judge's Disqualification, and a denial of Rehman's Motion for the substitution of the Personal Representative for one of the Defendants who had died after Rehman's lawsuit was filed at the Trial Court.

OPINIONS BELOW

The decision of the Trial Court, to dismiss Rehman's whistle-blower lawsuit occurred on June 28, 1995, by the order contained within the document at **Appendix 'A'** hereto. Rehman timely filed an appeal at the District Court of Appeal of the State of Florida for the Fifth District (5DCA) on July 6, 1995, appealing:

- a 9 March 1995 Order denying Disqualification of the Trial Court Judge,
- a 25 May 1995 Order denying Disqualification of the Trial Court Judge,
- a 28 June 1995 Order denying Motion for Substitution of Party, and
- a 28 June 1995 Trial Court dismissal order.

A copy of all the foregoing Orders are at **Appendix 'A'** hereto.

By the 5DCA order at **Appendix 'B'** hereto, without opinion, on May 1, 1996, that Appellate Court merely "Per Curiam Affirmed" everything that had taken place at the Trial Court, despite the Trial Court and the Appellate Court records clearly showing denials to Rehman of due process, denials to Rehman of equal treatment under the law, failure to apply facts to the law, and the disregarding of constitutional justice.

The 5DCA Order was timely appealed to the Supreme Court of Florida on May 7, 1996. By the order at **Appendix 'C'** hereto, that Appellate Court dismissed for lack of subject matter jurisdiction Rehman's appeal, subject to reinstatement upon motion.

On May 13, 1996 Rehman timely filed at the Supreme Court of Florida a Jurisdictional Brief which that Court declared was a MOTION FOR REINSTATEMENT OF DISMISSED APPEAL. On August 20, 1996, the Supreme Court of Florida denied that MOTION by the order at **Appendix 'D'** hereto.

JURISDICTION

The Supreme Court of Florida, having entered its final judgment on August 20, 1996, and there being no Court other than the Supreme Court of the United States to which Rehman can appeal, the jurisdiction of this Court is invoked under 28 U.S.C. § 1254.

CONSTITUTIONAL PROVISIONS & FEDERAL STATUTE INVOLVED

United States Constitution, Amendment 1:

> *[C]ongress shall make no law . . . or abridging the freedom of speech . . . and to petition the Government for a redress of grievances.*

United States Constitution, Amendment 9:

> *[T]he enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.*[1]

United States Constitution, Amendment 14, Section 1:

> *. . . . [N]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*[2]

28 U.S.C. § 1367(d):

> *[T]he period of limitations for any claim asserted under subsection (a), and for any other claim in the*

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[1] Rehman has a good faith belief that due process rights are retained by the people as well as the right to a "fraud free" workplace.

[2] Rehman has a good faith belief that under this provision of the Constitution, State Courts cannot discriminate against pro se persons nor deny to them the application of favorable controlling precedent case law. Further, State Courts cannot apply State Statute of Limitations to a case that is governed by Federal Law; in particular by 28 U.S.C. § 1367(d).

same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.[3]

STATEMENT OF THE CASE

In order to properly present to this Court what happened at the Lower Tribunals, it is necessary to recite briefly the events that started in a Florida private sector workplace, then in a Federal Court lawsuit, then in a Florida Trial Court, and finally at a State of Florida District Court of Appeal.

In 1989, Rehman, whose Biographical Sketch is contained at **Appendix 'E'** hereto, became an employee of ECC International Corp. (hereinafter "ECC"), a Defense Contractor having its main facility in Orlando, Florida. Those individually named RESPONDENTS in this Petition are present and former employees of that Employer.

Shortly after commencing his ECC employment, Rehman detected defense contract fraud in the ECC workplace. The adverse events that then occurred to Rehman, are summarized in the one page flowchart contained at

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[3] The Court is respectfully requested to note that in the decision of the State Trial Court at **Appendix 'A'** hereto, in dismissing the whistle-blower claim against Defendants, nowhere is 28 U.S.C. Section 1367 mentioned; even though Rehman timely asserted it at the Trial Court as applicable in the Statute of Limitations issue.

Appendix 'F' hereto. Rehman, after being fired by ECC in 1990, for engaging in whistle-blower "protected activity" under 31 U.S.C. § 3730(h), and for repeatedly refusing to participate in his employer's defense contract fraud, filed a lawsuit for wrongful termination of employment in Federal Court, upon which ECC repeatedly sought summary judgment. ECC appealed the Federal Court's denial of summary judgment, to the Eleventh Federal Circuit Court of Appeals. The United States Government (Department of Justice) entered the case there as Amicus Curiae in support of Rehman's position, and the ECC appeal was subsequently dismissed by the Federal Appellate Court. During more than six (6) years of Federal Court litigation on Rehman's lawsuit, the ECC Attorneys who will respond to this Petition, filed ten (10) equivalent Motions for Summary Judgment.[4] Their last Motion for Summary Judgment resulted in the Federal Magistrate Judge's Report and Recommendation contained at **Appendix 'G'** hereto, the Presiding Federal Judge's Order adopting it contained at **Appendix 'H'** hereto, and the Federal trial remains set for January 1997 per the Order contained at **Appendix 'I'** hereto.

During discovery in the Federal lawsuit, ECC refused to furnish names and addresses of certain former employees, but on a Motion to Compel filed by Rehman, the Federal Court so ordered. Just before furnishing the Court ordered names and addresses to Rehman, the ECC Attorneys wrote and sent letters to the 108 persons, portraying Rehman in such a vile manner so as to create

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[4] **Some were disguised as Motions in Limine.**

revulsion towards him and to make vile assertions relating to his reputation, principles, and character. Additionally, Attorneys for RESPONDENT ECC here, knowingly sanctioned the creation and delivery of a false and defamatory document to the United States Government, intended to intentionally adversely portray Rehman as having supposedly been fired from ECC for misconduct, when no such event had ever occurred; for the purpose of discrediting and defaming Rehman. The defamation issues are before this Court in Rehman's PETITION FOR WRIT OF CERTIORARI, Supreme Court of the United States **Case No. 96-197.**

Rehman attempted to bring in Federal Court, a supplemental jurisdiction State claim action against ECC, for wrongful termination of employment, under the State Whistle-blower's Act and the Common Law of Florida. However, the Federal Court declined to exercise jurisdiction. Ultimately, Rehman timely filed a Whistle-blower lawsuit in State Court. The presiding Judge there denied ECC's Motion to Dismiss, and instead stayed the case until completion of all Federal Court litigation involving ECC, on Rehman's 31 U.S.C. § 3730(h) claim, was concluded. A copy of that State Trial Court Order is at **Appendix 'J'** hereto.

Thereafter, a State Circuit Court Judge, who had been arrested for a criminal offense and was pending trial in that matter, was taken out of the State Circuit's Domestic Court, transferred to the Civil Division and assigned to Rehman's Whistle-blower Case. That Judge was convicted in a public trial by jury, see document at **Appendix**

'K' hereto, and almost immediately thereafter all Rehman's litigation in State Court began to rapidly deteriorate (retaliation by the Judge, against Rehman who was pro se, for the Judge's criminal conviction by jury of citizens like Rehman) whereby the convicted judge disregarded all that had gone before and Rehman's Defamation Case went from "scheduled for trial" to "thrown out of Court", see Rehman's Petition **Case No. 96-197**; and his Whistle-blower case before that same Judge went from "stayed" status as reflected in the Trial Court's decisions at **Appendix 'J'** hereto, to a "thrown out of Court" status, as reflected in the Successor Judge's Trial Court Order at **Appendix 'A'** hereto. In so doing, the Trial Court Successor Judge, caused Rehman to be denied due-process, caused him not to be given equal treatment under the law, and deprived him of beneficial controlling precedent case law. On September 3, 1996, in a nonpartisan election, the Electorate of the County in which the Trial Court Successor Judge serves, voted overwhelmingly (60.17%) for the Judge's opponent, thereby in effect removing the Trial Court Successor Judge from judicial office commencing 1 January 1997.

Upon appeal of the matter to the District Court of Appeal of the State of Florida for the Fifth District (5DCA), although Rehman timely raised the constitutional due process, equal treatment under the law, controlling precedent case law, and disqualification of the Judge issues, all were disregarded completely in a simple "per curiam affirmed" order from that Appellate Court. A copy of that Order is at **Appendix 'B'** hereto. Rehman in a separate PETITION FOR WRIT OF CERTIORARI, **Case No. 96-555, filed** at this Court, in which the 5DCA Judges are the

Respondents, presents those issues regarding Appellate Attorney's Fees that occurred at, and was instituted by, the 5DCA.

PRIOR PROCEEDINGS IN THIS CASE

Rehman noted that The Florida Supreme Court itself, in *THE FLORIDA STAR v. B.J.F.*, 530 So.2d 286 (Fla. 1988) stated:

> *"To seek review of a state court judgment in the United States Supreme Court, a litigant first must exhaust all avenues of review available in the courts of the state. The fact that review in the highest court is discretionary is irrelevant; the litigant still must seek such review in order to proceed to the United States Supreme Court."*
>
> *"It is therefore essential to the preservation of a litigant's right to United States Supreme Court review that he or she know with certainty the avenues of appellate review required by the courts of the state."*
>
> *"A party who files only in the United States Supreme Court, however, would risk the objection that he or she has not exhausted state court remedies."*
>
> *Id. at 289.*

Rehman had absolutely no way of knowing whether any of the distinguishing characteristics of his Whistle-blower case would cause The Florida Supreme Court to determine that it indeed had jurisdiction. Thus the only choice he had, in view of the Florida Supreme Court caution to litigants in *THE FLORIDA STAR v. B.J.F.* quoted above,

was for Rehman to file his Whistle-blower case appeal first at The Florida Supreme Court. That Court refused to review Rehman's State Whistle-blower case and dismissed it claiming no subject matter jurisdiction existed; yet in that appeal Rehman was asking the Supreme Court of Florida to cause its own controlling precedent case law to be reviewed, and to examine the deprivation to Rehman's Federal and State Constitutional rights that were inflicted upon him at the Lower Tribunals.

THE AT-WILL-EMPLOYMENT DOCTRINE & COMMON LAW ISSUES

Rehman presented at the State Trial Court, and again at 5DCA, a series of Flowcharts which embody the arguments on the partial unconstitutionality of the Florida at-will-employment doctrine and the Common Law of Florida. Those Flowcharts which are at **Appendix 'L'** hereto, depict the following concepts:

a. **FLOWCHART 'L1' – Constitutional Right to work in Fraud Free Workplace:** This flowchart traces from the Declaration of Independence to the United States Constitution, then to the Florida Constitution and State and Federal Laws; from which come a right to a fraud free workplace, the operation of which is an employer responsibility. The flowchart shows how Rehman was damaged by the ECC hostile/abusive workplace.

b. **FLOWCHART 'L2' – Partial Unconstitutionality of Florida At-Will-Employment Doctrine:** This flowchart depicts Federal vs. State concepts which demonstrate

how the conflict arises that leads to the partial unconstitutionality of the Florida At-Will-Employment Doctrine.

c. **FLOWCHART 'L3' – Mandates/Dictates of Public Policy Upon Rehman:** This flowchart shows how the status of Rehman as a member of the Armed Forces brings upon him a Public Policy Duty as regards whistleblowing, which when it is fulfilled, causes Rehman harm by his employer's wrongful termination of employment in retaliation.

d. **FLOWCHART 'L4' – Public Policy:** This flowchart shows how Public Policy develops and defines what it is, then shows how it governs Rehman's workplace conduct.

e. **FLOWCHART 'L5' – Citizen Rights:** This flowchart shows how from the U.S. Constitution and the Florida Constitution, and Federal & State Laws, rights/Privileges/Immunities flow which make the Florida At-Will-Employment doctrine partially unconstitutional.

FLORIDA STATE WHISTLE-BLOWER ACT ISSUE

In 1986 the Florida Legislature enacted a Whistleblower's Act as Florida Statute 112.3187 whereby certain activity by public employees became "protected activity", with provisions for recovery of damages through Court action. The Act also protected employees in the private sector whose employers had contracts with public sector government agencies. Hence, in effect, this Act put on notice all the employers in Florida, whether or not they

had any contract with public sector government agencies, that the Florida public policy was that retaliation against whistle-blowers was deemed violative of public policy and was a prohibited practice. In a 1992 Supreme Court of Florida case, **MARTIN COUNTY v. EDENFIELD**, 609 So.2d 27 (Fla. 1992), that Court held that § 112.3187, Fla. Stat. 1989, was a remedial statute designed to encourage the elimination of corruption by protecting whistle-blowers, and as a remedial statute must be construed liberally in favor of granting access to its remedy, and it must be applied to pending cases in the Florida Courts.

Effective June 7, 1991, the Florida Legislature enacted Florida Statute § 448.101 – 448.105, Fla. Stat., which essentially applied Whistle-blower protection to the entire private sector without regard to whether an employer had any contract with public sector government agencies. In **WALSH v. ARROW AIR**, 629 So.2d 144 (Fla. 3d DCA 1993) that Florida District Court held that § 448.101 – 448.105, Fla. Stat., was remedial with retroactive application to pending cases in Florida Courts. In **ARROW AIR v. WALSH**, 645 So.2d 422 (Fla. 1994), the Supreme Court of Florida reversed the 3d DCA **WALSH** decision by saying that § 448.101 – 448.105, Fla.Stat. was not remedial because it supposedly provided a new remedy to private sector employees for whistle-blowing retaliation by employers, which the employers supposedly had not been put on prior notice of.[5] Unfortunately, the Supreme

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[5] **Such logic by the Florida Supreme Court meant that in all cases then pending in Florida Courts, that it was permissible conduct for a private sector employer, who had no contract with a Florida Government Agency, to terminate the**

Court of Florida completely overlooked the fact that all Florida Employers were made aware of the whistle-blower protections in § 112.3187, Fla. Stat. 1989, and already knew that it was public policy not to retaliate against whistle-blowers. Additionally all Florida Employers knew that if they had or acquired a contract with any Florida government agency their employees were automatically covered by § 112.3187, Fla. Stat. 1989. Hence when § 448.101 – 448.105, Fla.Stat., was enacted it could not have been a surprise to Florida Employers since they already knew that retaliation against whistle-blowers was a violation of public policy. Therefore the Supreme Court of Florida should have held that § 448.101 – 448.105, Fla.Stat., was remedial and to be applied retroactively to pending cases in Florida Courts. In addition to the foregoing, the Supreme Court of Florida in ARROW AIR did not consider that Florida employers who are Defense Contractors for the United States Government already were fully aware that national public policy forbade retaliation against whistle-blowers and thus Rehman's employer already knew that retaliation against whistle-blowers was a prohibited act; hence § 448.101 – 448.105, Fla.Stat., in effect was not new subject matter to Rehman's employer, ECC International Corp..

Rehman has verified with the WALSH Attorney that the foregoing was not argued in the briefs at the Supreme

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employment of an employee in retaliation for that employee refusing to participate in/commit criminal defense contract fraud against the United States Government; and Florida Courts would enforce such retaliatory discharge and deny all remedy to private sector employees.

Court of Florida nor in oral argument thereto. Hence, the Supreme Court of Florida never considered the foregoing analysis. At Rehman's oral argument[6] appeal to 5DCA, and in his briefs, he tried, to no avail, to persuade 5DCA to certify the questions raised by the foregoing, to the Supreme Court of Florida. In Rehman's appeal of his State Whistle-blower case to the Supreme Court of Florida, Case Number 87,969, he raised the foregoing issues; however, the Supreme Court of Florida refused to listen, rejecting his case for supposedly lack of jurisdiction over the subject matter.

It should be respectfully emphasized by Rehman that even though the ARROW AIR issue exists, Rehman's State Whistle-blower claim still would "survive" because of the COMMON LAW jurisdiction which was specified in his Trial Court Complaint and presented to this Court in this *PETITION*.

The events in Rehman's State Whistle-blower claim occurred in 1989 and 1990, after § 112.3187, Fla. Stat. 1989 was enacted but before § 448.101 – 448.105, Fla.Stat. was enacted in 1991. However his State Whistle-blower claim was pending in the Florida State Trial Court when § 448.101 – 448.105, Fla.Stat. was enacted. On a bottom line basis, what it all means is that, in effect, the Supreme Court of Florida having invalidated any retroactive application of § 448.101 – 448.105, Fla.Stat., and supporting the Florida At-Will-Employment Doctrine, judicially supports

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[6] A copy of the transcript of Rehman's oral argument at 5DCA, is contained in Attachment 17 to his Application for Stay filed at this Court on September 12, 1996 as Application Number A96-167.

the firing of a Florida Citizen for his refusals and failure to participate in/commit criminal defense contract fraud against the United States Government.

REASONS FOR GRANTING THE PETITION

Rehman respectfully asks the Chief Justice and each Associate Justice who reads this *PETITION*, to imagine for a moment that they are the presiding judge in a Florida Trial Court and have before them Rehman's whistle-blower case in which:

- he clearly is a law abiding citizen and an honorable person,
- arguendo he possess proof positive of all allegations made in his Complaint,
- he was fired by his employer for repeatedly refusing to participate in and to commit criminal acts of defense contract fraud against the United States Government.

Were Rehman to have complied with the unlawful demands of his Employer, and been caught by law enforcement authorities and convicted of such a heinous crime, he:

- Would surely lose his liberty,
- Would surely lose his life savings,
- Would surely lose his entire Military Retired Pay and all benefits, such as Medical, etc., earned during his 26-1/2 years of Military Service which includes two tours of military duty in Vietnam, and

- Would suffer the complete devastation of his family.

If as a hypothetical Florida State Trial Court Judge, you would look Rehman in the eye, and tell him that he has no cause of action in Florida because of the at-will-employment doctrine, and that his employer had the right to fire him for Rehman repeatedly refusing to commit criminal fraud against the United States Government and for blowing the whistle on the fraud, and your conscience would in no way be offended by your making such a judicial pronouncement, then in all probability you will DENY this *PETITION*.

On the other hand, if you have as Rehman believes, a moral view and a righteousness, that the Judiciary cannot ever in good conscience allow the Courts to be used for the immoral purpose of supporting and fostering criminal activity against the United States by employers who attempt to "hide" behind the at-will-employment doctrine and to in effect attempt to "terrorize" their employees into committing criminal acts against the United States Government, by making their continuation of employment a hostage to their compliance with the performing of immoral criminal acts, then you would GRANT this *PETITION*. In so doing, you would thereby give Rehman an opportunity to respectfully come before this Court to show it how under the law, whistle-blowers have fundamental constitutional rights which cannot be abridged by any State doctrine or State statute.

During the 64 years of Rehman's lifetime he has tragically seen this Nation's greatness eroded by crime in our streets, crime in our homes, crime at our schools, and

now tragically the beginnings of crime in our workplaces. On one hand there are those who would say that it is not the function of the United States Supreme Court to make any laws, it is only to interpret them. Yet, in truth, every great advance in the dignity of "mankind" over the last 200 years in this Nation, has not come from any Legislature nor from the words of any statute, nor did it come from the pen of any President of the United States when he signed any bill into law; it came from the pronouncements of those Justices who serve and have served at this Honorable Court. It is at this highest Court in this Land that the dignity and the righteousness of United States "principles" have "survived" and been given a dignity of purpose and a sense of honor.

Perhaps, if Rehman were more of a realist than an "optimistic dreamer" he would have given up this quest long ago, by coming to the realization that as a pro se he is probably at a level so far removed from, and below, the Honorable Justices of this Court, as to make it an almost impossibility that they could ever view him as worthy to appear before them on such monumental matters as he sets forth in this case. The Justices of this Court surely never have enough time to do all that needs Judicial doing, and thousands of citizens yearly vie for the Certiorari attention of those who have earned being elevated to the highest Judicial positions in this Nation. Yet, within every Associate Justice and the Chief Justice at this Court, there surely must still be that "spark of life", that judicial curiosity to reach out for the unknown "frontiers" of the law, and a spirit to undertake that which will impart an energy to the judicial thought processes and a challenge to judicial "awareness" of the changing needs to adapt an

interpretation of the law to "modern" society needs and public policy necessity.

Admittedly, the world will not end if Rehman is not given Certiorari in this matter; yet we cannot say there will be no consequential loss. Our entire lives, even those of the Justices at this Court, no matter how long we live, last no more than a mere "blink of an eye" in the continuum of the eternity of time. It hardly seems no more than almost like yesterday, that we were young in body, spirit, and age. The Justices of this Court are blessed in a way that few others are, because they will leave to this Nation in perpetuity the legacy of the case law they bring forth. Whether or not Rehman's case will be among the Justices' legacy to the Nation, or become an invisible part of a subject matter "void", will be a function of the Justices' consciences and perhaps the Will of Almighty God.

CONCLUSION

Rehman prays for the granting of this petition for a writ of certiorari.

May God Bless and Eternally Preserve this Honorable Court.

Respectfully submitted by,

COLONEL DONALD I. REHMAN (RET.)
1390 Windy Ridge Court
Longwood, Florida 32750-4501
(407) 260-0690
Petitioner Pro Se

October 12, 1996

APPENDIX A
IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT OF FLORIDA ORANGE COUNTY, FLORIDA

DONALD I. REHMAN,

Plaintiff,

vs.

ECC INTERNATIONAL CORP., A Defense Contractor having an Orlando, FL Facility

EVELYN J. ANDREWS, individually and in her ECC capacity,

DANIEL CARRILLO, Jr., individually and in his ECC capacity,

GEORGE L. FRYE Jr., individually and in his ECC capacity,

AJIT W. HIRANI, individually and in his ECC capacity,

GEORGE W. MURPHY, individually and in his ECC capacity,

ANTHONY C. POLK, individually and in his former ECC capacity, and

JERRY D. ROBBINS, individually and in his ECC capacity,

Defendants.

Case Number: CI 94-1586

NOTICE OF APPEAL

DONALD I. REHMAN, as Pro Se, hereby gives NOTICE that this Cause of Action having just been totally DISMISSED by the Trial Court as to *all claims and all DEFENDANTS*, he hereby appeals to the:

DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA
FIFTH DISTRICT

from the following ORDERS, copy attached:

EXHIBIT 1 hereto:
9 March 1995 "ORDER DENYING PLAINTIFF'S URGENT MOTION FOR THE DISQUALIFICATION OF THE HONORABLE LINDA A. GLOECKNER".

Exhibit 2 hereto:
25 May 1995 "ORDER DENYING URGENT MOTION FOR DISQUALIFICATION OF THE HONORABLE LINDA A. GLOECKNER".

Exhibit 3 hereto:
28 June 1995 "ORDER DENYING MOTION FOR SUBSTITUTION OF PARTY".

Exhibit 4 hereto:
28 June 1995 "ORDER" (dismissal, etc)

DATED THIS 6th DAY OF July 1995.

Respectfully Submitted By:

/s/ Donald I. Rehman
Donald I. Rehman
1390 Windy Ridge Court
Longwood, FL 32750
(407) 260-0690
PLAINTIFF Pro Se

4 Exhibits

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing: "NOTICE OF APPEAL", including its four (4) Exhibits, has been furnished by U.S. Mail, postage paid, first class, this 6th day of July 1995, to:

Attorney Allen J. McKenna
Garwood, McKenna & McKenna, P.A.
815 N. Garland Avenue
Orlando, Florida 32801
ATTORNEYS FOR DEFENDANTS.

Attorney Theodore R. Baumgardner
ECC International Corp.
5882 S. Tampa Avenue
Orlando, FL 32839-3981
ATTORNEY FOR DEFENDANT ECC

/s/ Donald I. Rehman
Donald I. Rehman
PLAINTIFF Pro Se

EXHIBIT 1

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO. CI94-1586

DONALD I. REHMAN,

Plaintiff,

vs

ECC INTERNATIONAL CORP., ET AL.,

Defendants.
_____/

ORDER DENYING PLAINTIFF'S URGENT MOTION FOR THE DISQUALIFICATION OF THE HONORABLE LINDA A. GLOECKNER

THIS CAUSE, having come before the Court on Plaintiff's Urgent Motion for the Disqualification of the Honorable Linda A. Gloeckner, and the Court having reviewed the Court file and otherwise being fully advised in the premises, it is hereby,

ORDERED AND ADJUDGED:

That Plaintiff's Urgent Motion for the Disqualification of the Honorable Linda A Gloeckner is found to be legally insufficient to require disqualification and the Motion is denied.

DONE and ORDERED at Orlando, Orange County, Florida, this 9th day of March, 1995.

Non pro tunc March 3, 1995.

Original Signed
MAR 9 1995
Linda A. Gloeckner
Circuit Judge

LINDA GLOECKNER,
CIRCUIT JUDGE

EXHIBIT 2

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT, IN AND FOR ORANGE COUNTY, FLORIDA

CASE NO. CI94-1586

DONALD I. REHMAN,

Plaintiff,

vs

ECC INTERNATIONAL CORP., ET AL.,

Defendants.
_____/

ORDER DENYING URGENT MOTION FOR DISQUALIFICATION OF THE HONORABLE LINDA A. GLOECKNER

After careful consideration by the Court on Plaintiff's Urgent Motion For The Disqualification Of The Honorable Linda A. Gloeckner Dated May 16, 1995, the Court finds that said Motion is legally insufficient on its face and Plaintiff's Urgent Motion For The Disqualification Of The Honorable Linda A. Gloeckner is hereby Denied.

DONE and ORDERED Orlando, Orange County, Florida, this 25th day of May, 1995.

Tunc pro tunc May 16, 1995.

LINDA A. GLOECKNER,
CIRCUIT JUDGE

I HEREBY CERTIFY that copies of the foregoing Order were furnished by mail to Donald I. Rehman, 1390 Windy Ridge Court, Longwood, FL 32750 and John E. DuBose, Jr., Esq., 315 East Robinson St., Suite 555, Orlando, FL 32802-3751, this 25th day of May, 1995.

Original Signed
MAY 25 1995
Linda A. Gloeckner
Circuit Judge

Judicial Assistant

EXHIBIT 3

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT, IN AND FOR ORANGE COUNTY, FLORIDA

CASE NO. CI94-1586

DONALD I. REHMAN,

Plaintiff,

vs

ECC INTERNATIONAL CORP., ET AL.,

Defendants.

/

ORDER DENYING MOTION FOR SUBSTITUTION OF PARTY

THIS CAUSE having before the Court on June 2, 1995, on Plaintiff's Motion For Substitution of Party, the Court having heard argument and being otherwise fully advised in the premises, it is,

ORDERED AND ADJUDGED:

Plaintiff's Motion For Substitution of Party is hereby Denied.

DONE and ORDERED at Orlando, Orange County, Florida, this 28th day of June, 1995.

Original Signed

JUN 28 1995

Linda A. Gloeckner

LINDA GLOECKNER,
CIRCUIT JUDGE

I HEREBY CERTIFY that copies of the foregoing Order were furnished by mail to Allen J. McKenna, Esq., 815 N. Garland Avenue, Orlando, FL 32801, Theodore R. Baumgardner, Esq., ECC International Corp., 5882 S. Tampa Avenue, Orlando, FL 32839-3981 and Donald I. Rehman, 1390 Windy Ridge Court, Longwood, FL 32750, this 28th day of June, 1995.

Original Signed
JUN 28 1995
Linda A. Gloeckner
Circuit Judge

Judicial Assistant

APPENDIX A

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO.: C194-1586

DONALD I. REHMAN,

Plaintiff,

vs.

ECC INTERNATIONAL CORP.,
et. al.,

Defendants.
_____/

ORDER

THIS CAUSE having come onto be heard upon Defendants' Motion for Reconsideration Based Upon Changed and Exigent Circumstances, and Motion to set aside Stay of Proceeding for the sole purpose of considering Defendant's Motion to Dismiss based upon new Florida Supreme Court Case Law and Motion to Dismiss and being otherwise fully advised in the premises, it is therefore

ORDERED and **ADJUDGED:**

1. That Defendant's Motion for Reconsideration Based Upon Changed Exigent Circumstances is hereby Granted.

2. That Defendant's Motion to set aside the Stay of proceedings is hereby Granted.

3. That Defendant's Motion to Dismiss is Granted, with prejudice, on the following grounds:

A. F.S.A. § 448.101 cannot provide jurisdiction retroactively to apply to Plaintiff's claim pursuant to the Florida's Supreme Court decision in *Walsh v. Arrow Air, Inc.*, 645 So.2d 422 (Fla. 1994);

B. F.S.A. § 448.101 applies only to "employer[s]" and therefore is not applicable to the individually named Defendants; and

C. Plaintiff's action is barred by the applicable statute of limitations, F.S.A. § 448.103.

DONE and **ORDERED** in chambers at Orlando, Orange County, Florida, this 28 day of June, 1995.

/s/ Linda Gloeckner
Linda Gloeckner,
Circuit Judge

Copies to: Allen J. McKenna, Esquire
Theodore R. Baumgardner, Esquire
Donald I. Rehman
By /s/ Joyce Brasher
June 28, 1995

APPENDIX B

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

FIFTH DISTRICT JANUARY TERM 1996

NOT FINAL UNTIL THE TIME EXPIRES TO FILE REHEARING MOTION, AND, IF FILED, DISPOSED OF.

DONALD I. REHMAN,

Appellant,

CASE NO. 95-1758

v.

ECC INTERNATIONAL CORP., et al.,

Appellees.

_____/

Decision filed April 16, 1996

Appeal from the Circuit Court for Orange County, Linda A. Gloeckner, Judge.

Donald I. Rehman, Longwood, in proper person.

Theodore R. Baumgardner, Orlando, for ECC International Corp., and Allen J. McKenna, of Garwood, McKenna & McKenna, P.A., Orlando, for Appellees.

PER CURIAM.

AFFIRMED.

DAUKSCH, SHARP, W., and THOMPSON, JJ., concur.

APPENDIX C

Supreme Court of Florida

FRIDAY, MAY 10, 1996

DONALD I. REHMAN,	* *	
Appellant/Petitioner,	* *	CASE NO. 87,969
	* *	
v.	* *	DISTRICT
	* *	COURT OF
ECC INTERNATIONAL CORP., ET AL.,	* *	APPEAL, 5TH
	* *	DISTRICT – NO.
Appellees/Respondents.	* *	95-1758

It appearing to the Court that it is without jurisdiction, the Petition for Review is hereby dismissed and no motion for rehearing will be entertained by the Court.

It appearing to the Court that the District Court of Appeal, Fifth District, did not declare *invalid* a State Statute or a provision of the State Constitution, and that, therefore, it is without jurisdiction, this appeal is hereby dismissed subject to reinstatement if jurisdiction is established on proper motion *filed* within fifteen (15) days from the date of this order. See Article V, Section 3(b)(1), Florida Constitution.

Petitioner/Appellant's Petition for Writ of Mandamus/Prohibition is hereby dismissed.

A True Copy

TEST:

Sid J. White
Clerk Supreme Court

By: /s/ Betsy Hill (Seal)
Deputy Clerk

H

cc: Hon. Frank J. Habershaw, Clerk
Hon. Fran Carlton, Clerk
Hon. Linda A. Gloeckner, Judge
Mr. Donald I. Rehman
Mr. Theodore R. Baumgardner
Mr. Allen J. McKenna

SID J. WHITE, CLERK
Supreme Court of Florida
500 SOUTH DUVAL STREET
TALLAHASSEE 32399-1927
(904) 488-0125

DONALD I. REHMAN
1390 WINDY RIDGE COURT
LONGWOOD, FLORIDA 32750

5/20/96 filed 5-13-96

DONALD I. REHMAN

VS

ECC INTERNATIONAL CORP., ET AL

CASE NO. 87,969

I have this date received the below-listed pleadings or documents:

PETITIONER'S BRIEF AND APPENDIX HAS BEEN TREATED AS A MOTION FOR REINSTATEMENT AND FILED WITH THE COURT.

Please make reference to the case number in all correspondence and pleadings.

Most cordially,

/s/ Sid J. White
Clerk, Supreme Court

ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

SJW/BDM
cc: ALLEN J. MCKENNA
THEODORE R. BAUMGARDNER

APPENDIX D

Supreme Court of Florida

TUESDAY, AUGUST 20, 1996

DONALD I. REHMAN Appellant, v. ECC INTERNATIONAL CORP., ET AL., Appellees.	*	CASE NO. 87,969 District Court of Appeal, 5th District – No. 95-1758

Appellant's Motions for Reinstatement filed in the above cause are hereby denied.

Appellees' Motion for Attorneys' Fees are hereby denied. OVERTON, SHAW, GRIMES, HARDING and ANSTEAD, JJ., concur.

A True Copy
TEST:
/s/ Sid J. White
Sid J. White
Clerk
Supreme Court
[SEAL]

TC
cc: Hon. Frank Habershaw, Clerk
Hon. Fran Carlton, Clerk
Hon. Linda A. Gloeckner, Judge
Mr. Donald I. Rehman
Mr. Theodore R. Baumgardner
Mr. Allen J. McKenna

APPENDIX E

BIOGRAPHICAL SKETCH – DONALD I. REHMAN

Don Rehman is a Certified Professional Logistician (C.P.L.) with an MBA degree, a Master of Science degree in Logistics Management, and a Bachelor of Science degree in Military Science. He has over 30 years experience in the field of Logistics Management, and he has attended numerous technical courses related to his logistics career field.

As a teenager, Don Rehman commenced a military career, starting as a Private. Serving for more than 26 years, his military career was devoted almost exclusively to logistics. He received successive promotions reaching the grade of full Colonel, and worked in logistics assignments at operational levels, commodity command, major field command, and the Pentagon. He achieved Logistician certification from the cognizant Pentagon agency, in addition to earning his C.P.L. certification.

Subsequent to his military service, Don Rehman commenced a second career in industry where he worked for numerous years. He has been employed by E-Systems as Manager International Marketing & Logistics, Manager Division Profit Planning, and Manager Review & Analysis Group (Logistics). Subsequent to E-Systems employment, Don attended the University of South Florida (Tampa) on a full time basis to earn his second master's degree, an MBA. Upon graduation he joined Sanders Associates as Integrated Logistics Support (ILS) Program Manager. Later he became Manager of Logistics for Codex Corporation. In 1987 Don Rehman established Rehman Consulting Services Company, specializing in

Logistics Management, and relocated from New England to the Orlando Area. An exceptional position opportunity with a Defense Contractor in May 1989, caused him to accept employment with that Company. He subsequently was assigned as the Staff Assistant (for Logistics) to the Vice President Engineering.

Don Rehman has been married for over 42 years to his wife Marian, whom he met at his first duty station after graduating from Officer Candidate School (OCS) and becoming a second lieutenant. They have two children. Their son Doug is a graduate of the University of South Florida with a B.S. in Criminal Justice, is married, 2 children, and is employed with the Florida Department of Law Enforcement (FDLE). Their daughter Linda is a graduate of the Medical College of Georgia with a B.S. in Dental Hygiene, and is following in her mother's footsteps by having married a second lieutenant, who over the years advanced in grade, and is now a Lieutenant Colonel. She has 2 children and works full time in her medical specialty.

Don's hobbies are electronics, computer, and auto mechanics. He served over a year as Director/President of the Northridge Pointe Homeowners' Association, is now its Director/Secretary, and he recently completed several years of service as a member of the Seminole County Sheriff's Civilian Review Board.

FLOWCHART OF: CIVIL ACTION #: 90-425-CIV-ORL-22

ECC INT'L CORP. ALLEGEDLY HAS ROUTINE DETRIMENTAL PRACTICES

↓

PRIOR LOGISTICS MANAGER RESIGNS IN FRUSTRATION TO PRECLUDE BECOMING INVOLVED IN DEFENSE CONTRACT WRONGDOING

PLAINTIFF HIRED AS LOGISTICS MANAGER; DISCOVERS SERIOUS PROBLEMS AT ECC

↓

PLAINTIFF RAISES ISSUES RELATED TO COMPANY DEFENSE CONTRACT MATTERS WITHIN 1ST 2 WEEKS OF EMPLOYMENT COMMENCEMENT

↓

PLAINTIFF ATTEMPTS TO RESIGN AFTER 5 MONTHS OF ENDURING DISCRIMINATION & HARASSMENT, BUT IS PERSUADED TO STAY BY FRAUDULENT ECC PRETENSES

EXTENT AND NATURE OF PLAINTIFF DUTIES DEFINED AND MUTUALLY AGREED TO (BUT 30+ DAYS LATER FULLY VIOLATED BY ECC)

↓

PLAINTIFF ATTEMPTS TO RELIEVE "INCAPABLE" EMPLOYEE FROM SENSITIVE POSITION ON DEFENSE CONTRACT AND GIVE HIM A JOB MORE IN KEEPING WITH HIS CAPABILITIES (EMPLOYEE LATER COMMITS WRONGDOING)

PLAINTIFF SUDDENLY DEMOTED, HUMILIATED, AND PLACED IN ISOLATION AS RETALIATION FOR EXPOSING AND TRYING TO PREVENT DEFENSE CONTRACT FRAUD

↓

PLAINTIFF PERMITTED TO INTERACT ONLY WITH EMPLOYEE WHOM HE TRIED TO RELIEVE. AFTER DEMOTION, OVER A 3 MONTHS PERIOD, BY DIABOLICAL ECC SCHEME, ALL PLAINTIFF'S WORK MUST BE SUBMITTED TO THAT EMPLOYEE, WHO CONTINUALLY DISAPPROVES IT ALL AND THROWS SOME/ALL IN TRASH

↓

OVER SEVERAL MONTHS, PLAINTIFF SUBMITS MEMORANDUMS TO ECC SUPERIOR DOCUMENTING COMPANY'S ALLEGED CONTRACT FRAUD IN EFFORT TO STOP IT

↓

PLAINTIFF BEGINS TO PREPARE WRITTEN FRAUD COMPLAINT TO U.S. GOVERNMENT AND "QUI TAM" (FALSE CLAIMS ACT) ACTION IN NAME OF U.S. GOVERNMENT

KNOWING THAT PLAINTIFF IS GOING TO "BLOW THE WHISTLE", EXTRAORDINARY PRESSURE PLACED UPON PLAINTIFF TO CONFISCATE ALL HIS FRAUD EVIDENCE AND MAKE HIM RESIGN. PLAINTIFF REFUSES TO RELINQUISH DOCUMENTS/RESIGN AND IS SUMMARILY FIRED UNDER PRETEXT OF UNSATISFACTORY JOB PERFORMANCE

↓

DEFENDANTS SEND WRITTEN MISINFORMATION TO OVER 100 PERSONS THROUGHOUT U.S. IN MALICIOUS AND RETALIATORY EFFORT TO INTENTIONALLY IMPAIR PLAINTIFF'S PERSONAL AND PROFESSIONAL REPUTATION

↓

PLAINTIFF SUFFERED PERSONAL HUMILIATION/MENTAL SUFFERING/LOSS OF ENJOYMENT OF LIFE/DISCRIMINATION/JOB LOSS/DEVASTATION OF CAREER AND IMMENSE FINANCIAL BURDEN/LOSS, ETC.

APPENDIX G

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DONALD I. REHMAN,

Plaintiff,

-vs-

ECC INTERNATIONAL CORP.,

Defendant.

Case No. 90-425-Civ-Orl-22

REPORT AND RECOMMENDATION

(Filed Jun. 5, 1996)

TO THE UNITED STATES DISTRICT COURT

Defendant ECC International Corporation's (herein "ECC") motion for summary judgment (Doc. No. 607) has been referred to the undersigned United States Magistrate Judge for preparation of a Report and Recommendation as to appropriate disposition.

A party is entitled to judgment as a matter of law when the party can show that there is no genuine issue as to any material fact. Fed. R. Civ. Pro. 56(c). The substantive law applicable to the case determines which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S.Ct. 2505, 91 L.Ed. 2d 202 (1986). Summary judgment is mandated "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case and on which that party will bear the burden of proof." *Celotex Corp. v. Catrett*, 477 U.S. 317,

322 (1986). As the Plaintiff bears the burden of proving his claim, the Defendant is not required to negate it, but may support its Rule 56 motion by "showing – that is, pointing out to the district court – that there is an absence of evidence to support the non-moving party's case." *Celotex*, 477 U.S. at 325; *Fitzpatrick v. City of Atlanta*, 2 F.3d 1112 (11th Cir. 1993). In undertaking this analysis, it is appropriate to construe the *pro se* complaint more liberally than the Court would the complaint of a represented party. *Harris v. Ostrout*, 65 F.3d 912 (11th Cir. 1995).

In its motion, ECC reiterates its earlier arguments pertaining to the two remaining claims in the case, a claim for two weeks of severance pay and a claim pursuant to 31 U.S.C. § 3730(h). *See Report and Recommendation dated March 4, 1993 (Doc. No. 497); and this Court's adoption of same (Doc. No. 532).* Although additional case law has developed since the Court denied ECC's previous motion for summary judgment on the False Claims action, the new case law does not change the facts particular to this case. Because there remain genuine issues of material fact with respect to whether Plaintiff engaged in conduct protected by § 3730(h), whether ECC was aware of such conduct and the significance of the conduct in ECC's decision to terminate Plaintiff, summary judgment is just as inappropriate now as it was three years ago. *See Field v. F & B Manufacturing, Co.*, 1996 WL 238917 (N.D. Ill. May 6, 1996) (summary judgment is inappropriate when a reasonable jury could conclude that claimant had reasonable cause for suspicion and inquiry into company's potentially fraudulent conduct, even if no actual fraud existed.)

With respect to the severance pay claim, as this Court stated previously entitlement to and the amount of severance pay cannot ordinarily be determined summarily.[1] The conflicting testimony and authorities compel denial of summary judgment on this claim.

Therefore, the undersigned respectfully recommends that ECC's motion be **DENIED** and the case remain on the trial calendar.

Failure to file written objections to the proposed findings and recommendations contained in this report within ten (10) days from the date of its filing shall bar an aggrieved party from attacking the factual findings on appeal.

Respectfully recommended in Orlando, Florida on June 5, 1996.

/s/ David A. Baker
DAVID A. BAKER
UNITED STATES
MAGISTRATE JUDGE

Copies furnished to:

Donald I. Rehman
Allen J. McKenna
Theodore R. Baumgardner

---

[1] Interestingly, in defending against Plaintiff's motion for summary judgment on this claim three years ago, ECC argued that, at the very least, factual issues exist as to Plaintiff's entitlement to be paid beyond the actual period of his employment. The Court agrees.

APPENDIX H

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DONALD I. REHMAN,

Plaintiff

-vs- CASE NO. 90-425-CIV-ORL-22

ECC INTERNATIONAL CORP.,,

Defendant

_____/

ORDER

This cause comes before the Court on Defendant ECC International Corporation's (herein "ECC") motion for summary judgment (Dkt. 607). The United States Magistrate Judge has submitted a report recommending that the Motion be denied. No opposition to the report has been timely filed.

After an independent *de novo* review of the entire record in this matter, the Court agrees entirely with the findings of fact and conclusions of law in the Report and Recommendation (Dkt. 635).

Based on the foregoing, it is ordered as follows

1. The Report and Recommendation filed June 5, 1996 (Dkt. 635), is ADOPTED and CONFIRMED and made part of this Order.

2. The Motion for summary judgment (Dkt. 607) is denied.

DONE AND ORDERED in Chambers, Orlando, Florida, this 27th day of June , 1996.

/s/ Anne C. Conway
ANNE C. CONWAY
United States
District Judge

Copies to: Counsel of Record

APPENDIX I

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DONALD I. REHMAN,

Plaintiff

-vs- CASE NO. 90-425-CIV-ORL-22

ECC INTERNATIONAL CORPORATION,

Defendant

_____/

ORDER

(Filed Jan. 4, 1996)

Plaintiff's **Renewed Motion to Set Cause for Trial (Dkt. 622)**, filed December 19, 1995, is GRANTED. This jury trial is scheduled for the trial term commencing **January 2, 1997.**

DONE AND ORDERED in Chambers in Orlando, Florida, this 4th day of January, 1996.

/s/ Anne C. Conway
ANNE C. CONWAY
United States
District Judge

Copies to: Donald I. Rehman, *pro se*
Counsel of Record

APPENDIX J

IN THE CIRCUIT COURT OF
THE NINTH JUDICIAL
CIRCUIT, IN AND FOR
ORANGE COUNTY, FLORIDA

DONALD I. REHMAN,

Plaintiff, Case No. CI 94-1586

vs.

ECC INTERNATIONAL CORP,
et al.,

Defendants.
_____/

ORDER ON DEFENDANTS' MOTION TO DISMISS AND ALTERNATIVE MOTIONS TO STAY/ABATE AND TO STRIKE

THIS CAUSE having come on to be heard on Defendants' Motion to Dismiss and Alternative Motions to Stay/Abate and to Strike, and the Court being fully advised in the premises herein, it is hereby

ORDERED AND ADJUDGED:

The Defendants' Motion to Stay/Abate is hereby GRANTED.

All state court proceedings in this matter, including any decision by this Court on the Defendant's Motion to Dismiss and Motion to Strike, shall be stayed until such time as all federal court trial and appeal proceedings between the parties have been completed.

DONE AND ORDERED in Chambers, Orange County Courthouse, Orlando, Florida, this 9th day of May, 1994.

/s/ W. Rogers Turner
W. Rogers Turner
Circuit Court Judge

Copies to:
Mr. Donald I. Rehman
1390 Windy Ridge Court
Longwood, Florida 32750

Allen J. McKenna, Esq.
Garwood, McKenna & McKenna, P.A.
P.O. Box 60
Orlando, Florida 32802

The Orlando Sentinel

SUNDAY, January 22, 1995

Expelled students are more likely to commit serious crimes, a state study shows, B-3

Local & state

TOM SPITZ/THE ORLANDO SENTINEL

Orange Circuit Judge Linda Gloeckner prepares to wipe her fingers after prints are taken Saturday. She was found guilty of drunken driving.

Judge convicted of drunken driving

By Debbie Salamone

OF THE SENTINEL STAFF

An Orange County judge who rammed her Volvo into the rear of a BMW two years ago was found guilty Saturday of drunken driving.

Circuit Judge Linda Gloeckner was sentenced to serve a year of probation, pay $750 in fines and drive only on business for the next six months.

Her five-day trial in Orlando ended after less than two hours of jury deliberations. Gloeckner, who shook her head after hearing the verdict, declined to comment.

Seminole County prosecutors Eilam Isaak and Jack Kaleita faced an uphill fight after Seminole County Judge Fredric Hitt prohibited them from telling jurors that Gloeckner's blood-alcohol content had been measured at 0.17 percent. Florida's legal limit at the time of Gloeckner's arrest in January 1993 was 0.10 percent.

Defense attorneys Stuart Hyman and Mark NeJame, who had questioned the reliability of the breath test, attacked the credibility of prosecution witnesses throughout the trial. Two alternate jurors — released from duty before jury deliberations — said they would have found the judge not guilty.

Hyman said appeals are likely, and he will ask for a new trial.

"Considering the outcome, it just proves there is a justice system that we have to have faith in. And it proves nobody is above the law," said John

Please see **JUDGE, B-5**

K2

Judge must attend defensive driving school, victims program

JUDGE from B-1

Evans, a victim advocate for Mothers Against Drunk Driving who spoke for the women involved the car accident.

As part of her sentence, Gloeckner, 45, must attend defensive-driving school and a victim awareness program. Hitt withheld a formal ruling of guilt on a careless driving citation. Gloeckner interjected that she had completed a drunken driving course that also is part of her sentence. She said counselors determined she had no alcohol problem.

Gloeckner's car struck the BMW at a traffic light at Wymore and Lee roads. The BMW slammed into a vehicle in front of it. The judge refused to take all but one field sobriety test, saying blindness in one eye would have affected her ability to perform successfully.

Prosecutors, however, showed a video of Gloeckner during her arrest and called some of her answers slurred. They also had testimony from accident victims and a state trooper who said Gloeckner showed signs of intoxication, including smelling of alcohol.

Their key witness, a waitress, produced a restaurant receipt and testified that she served Gloeckner eight 2-ounce straight vodka drinks within two hours at the Maitland restaurant where the judge joined several other women for a birthday party.

But a surprise defense witness — the restaurant owner — testified that the waitress had been known to alter drink and meal tickets to pocket extra money. The receipt brought by the waitress appeared to have some inconsistencies, the defense attorneys argued.

In addition, the lawyers tried to discredit the accident victims, pointing out that a verdict against the judge would help their civil lawsuit against her. They also argued that the women at the party saw Gloeckner drink only two drinks and that she seemed fine upon leaving.

They showed a video of Gloeckner buying food in a convenience store minutes after the accident to prove she walked without staggering or swaying. Several lawyers who saw Gloeckner after the accident testified that she did not appear drunk, and her ophthalmologist testified she had trouble with depth perception that might cause her to stumble.

Gloeckner, who handles civil matters such as contract disputes, already has been reprimanded by the Florida Supreme Court.

CONSTITUTIONAL "TRACEABILITY" FOR APPELLANT'S CONSTITUTIONAL RIGHT TO WORK IN WORKPLACE FREE FROM FRAUD
WHISTLE-BLOWER CLAIM CI 94-1586 [5DCA APPELLATE CASE NUMBER 95-01758]

DECLARATION OF INDEPENDENCE (July 4, 1776)

"..... We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—"

UNITED STATES CONSTITUTION Sept. 17, 1787

CONGRESSIONAL LEGISLATIVE POWERS

BILL OF RIGHTS

FLORIDA STATE CONSTITUTION

"We the people of the State of Florida, being grateful to Almighty God for our constitutional liberty ....."
July 4, 1868

CREATION of inalienable rights to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry .....

FEDERAL LAWS prescribing rights

U.S. SUPREME COURT HAS ESTABLISHED BY CASE LAW, CONDITIONS WHICH CONSTITUTE "HOSTILE OR ABUSIVE" WORK ENVIRONMENT

U.S. & FL CONSTITUTIONAL RIGHT TO PERFORM WORK IN A FRAUD FREE WORKPLACE

BY ANALOGY, FRAUD IN A WORKPLACE IS "per se" HOSTILE & ABUSIVE, VIOLATING EMPLOYEE'S CONSTITUTIONAL RIGHTS

APPELLANT-PLAINTIFF REHMAN

GOES TO WORK FOR:
ECC INTERNATIONAL CORP.
AND SUBSEQUENTLY DISCOVERS/REPORTS
fraud by Company and Managing Agents
AND IS INVOLUNTARILY SUBJECTED TO:
harassment to participate in fraud

fraud plagued "HOSTILE/ABUSIVE WORK ENVIRONMENT"

endangerment of Militray Retired Pay
endangerment to future "liberty"
nullification of "pursuit of happiness"
employment termination on "pretext"

demotion	isolation	harassment	termination	financial damages	career loss

LOSS OF CONSTITUTIONAL RIGHT TO WORK IN FRAUD FREE WORKPLACE

"TRACEABILITY" FOR PARTIAL UNCONSTITUTIONALITY OF FLORIDA DOCTRINE

DEFENDANTS WRONGFULLY TERMINATE REHMAN'S EMPLOYMENT BY INVOKING AUTHORITY OF FLORIDA AT-WILL EMPLOYMENT DOCTRINE

FEDERAL

UNITED STATES CONSTITUTION

("life/liberty/pursuit of happiness")

1ST AMENDMENT FREE SPEECH & 14TH AMENDMENT PERSONAL AND PROPERTY RIGHTS

SUPREMACY CLAUSE ART VI (2)

JUDICIARY

ART I SEC 8(12) Power to Raise and Support Armies

Career Federal Benefits

JUDICIAL DECISIONS THEREBY ESTABLISHING CASE LAW

NULLIFIES STATES LAWS AND DOCTRINES WHICH CONFLICT WITH FEDERAL LAW AND/OR VIOLATE THE FEDERAL CONSTITUTIONAL RIGHTS OF CITIZENS

STATE

AMERICAN COLONIAL LAW

[redacted] [redacted]

FLORIDA COMMON LAW

[redacted] [redacted]

FLORIDA AT-WILL EMPLOYMENT DOCTRINE

nexus nexus

FL State Supported, Enforced, Sanctioned, Provided, Authorized

nexus nexus

NEXUS

ENCOURAGES EMPLOYER TO TERMINATE EMPLOYEE WHO REFUSES TO PARTICIPATE IN FRAUD;

PERMITS EMPLOYER TO OPERATE FRAUD PLAGUED "HOSTILE" WORKPLACE;

PERMITS EMPLOYER TO INVOLUNTARILY INVOLVE EMPLOYEE IN FRAUD;

PERMITS ENDANGERMENT OF ALL FEDERAL BENEFITS OF EMPLOYEES* WHO HAPPEN TO BE FEDERAL MILITARY RETIREES;

PERMITS DEPRIVATION OF U.S. & FLORIDA CONSTITUTIONALLY GUARANTEED RIGHTS.

NEXUS

All that is above should stop the

NEGATING OF CONSTITUTIONALLY GUARANTEED RIGHTS OF EMPLOYEE BY EMPLOYER WHO ADOPTS & USES UNCONSTITUTIONAL DOCTRINE THAT HAS "STATE" OF FLORIDA AUTHORITY AS SOURCE, WITH STATE CREATED SYSTEM FOR ENFORCEMENT OF THE EMPLOYER'S UNCONSTITUTIONAL ACTS

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UNCONSTITUTIONAL EMPOWERMENT & ENCOURAGEMENT OF EMPLOYERS BY STATE OF FLORIDA

A Constitutional Dilemma!

Case Nr. 95-01758 (5DCA) & 94-1586 (Fla. 9th Cir.)

*Like APPELLANT Rehman

L2

CHARACTERISTICS/ATTRIBUTES OF REHMAN AS "RETIRED" REGULAR ARMY OFFICER

APPELLANT-PLAINTIFF REHMAN
"RETIRES" FROM U.S. ARMED FORCES
after 26-1/2 yrs service & serving twice in combat zone

↓

(McCarty v. McCarty, 453 US 210, 69 L Ed 2d 589, 101 S Ct 2728 [1981])
(United States v. Tyler, 105 US 245 [1981])
(Puglisi v. United States, 564 F.2d 403 [1977])

APPELLANT-PLAINTIFF REHMAN:

REMAINS A MEMBER OF THE ARMED FORCES FOR LIFE

REMAINS SUBJECT TO RECALL TO ACTIVE DUTY AT ANY TIME FOR LIFE

CONTINUES TO BE SUBJECT FOR LIFE TO THE "UNIFORM CODE OF MILITARY JUSTICE"

RECEIVES MILITARY RETIRED PAY AS REDUCED COMPENSATION FOR REDUCED CURRENT SERVICES FOR LIFE

WILL FORFEIT ALL RETIRED PAY, ALL MEDICAL, ALL INSURANCE AND ALL OTHER GOV'T BENEFITS IF HE PARTICIPATES IN FRAUD AGAINST U.S. GOV'T, IS CONVICTED OF MISPRISION OF A FELONY, &/or CONVICTED W/EMPLOYER OF CONSPIRACY TO DEFRAUD.

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MANDATES/DICTATES OF PUBLIC POLICY
REHMAN IS ENTRUSTED/SWORN WITH A PUBLIC DUTY
"DUTY - HONOR - COUNTRY"

↓

BRINGS FORTH MANDATORY PUBLIC POLICY OBLIGATIONS UPON APPELLANT-PLAINTIFF REHMAN TO REFUSE TO PARTICIPATE IN ILLEGAL ACTS SUCH AS FRAUD AGAINST THE U.S. GOVERNMENT, AND TO TAKE NECESSARY ACTION TO CAUSE IT TO CEASE, AND THE PERPETRATORS APPROPRIATELY INVESTIGATED FOR THEIR OFFENSIVE ACTS

SEE NEXT PAGE FOR PUBLIC POLICY →

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Constitutionally Guaranteed Right for Work to be in fraud free workplace

(See flowchart fraud free wp)

→ → →

APPELLANT-PLAINTIFF REHMAN
GOES TO WORK FOR: ECC INTERNATIONAL CORP., WHICH HE DISCOVERS OPERATES A FRAUD PLAGUED "HOSTILE WORK ENVIRONMENT", AND REHMAN SUBSEQUENTLY DISCOVERS 18 U.S.C. 1001 fraud by Company and Managing Agents AND IS COMPELLED BY PUBLIC POLICY TO DISCLOSE IT, BUT AS A RESULT HE SUFFERS:

↓

demotion	isolation	harassment	termination	financial damages	career loss

↓

WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

Case Nr. 95-1758 (5DCA) & 94-1586 (Fla. 9th Cir.)

DEVELOPMENT OF PUBLIC POLICY REHMAN WAS SWORN TO OBEY

DECLARATION OF INDEPENDENCE (July 4, 1776)

"..... We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--"

UNITED STATES CONSTITUTION//FLORIDA STATE CONSTITUTI

- **CONGRESSIONAL LEGISLATIVE POWERS** → **ENACTMENT OF LAWS WHICH ARE DEEMED FOR PUBLIC'S GOOD AND THE PUBLIC'S BEST INTERESTS**
- **EXECUTIVE BRANCH POWERS** → **ENFORCEMENT**
- **JUDICIARY** → **JUDICIAL DECISIONS THEREBY ESTABLISHING CASE LAW**
- **BILL OF RIGHTS** → **DECLARATIONS OF FUNDAMENTAL PUBLIC PRINCIPLES**

PUBLIC POLICY

ABIDES IN:

CUSTOMS AND CONVENTIONS OF THE PEOPLE - IN THEIR CLEAR CONSCIOUSNESS AND CONVICTION OF WHAT IS NATURALLY AND INHERENTLY JUST AND RIGHT BETWEEN HUMAN BEINGS. WHEN A COURSE OF CONDUCT IS CRUEL OR SHOCKING TO THE AVERAGE PERSONS CONCEPTION OF JUSTICE, SUCH COURSE OF CONDUCT MUST BE HELD TO BE OBVIOUSLY CONTRARY TO PUBLIC POLICY, EVEN THOUGH SUCH POLICY MAY NEVER HAVE BEEN SO WRITTEN.

See prior page

APPELLANT-PLAINTIFF REHMAN

GOES TO WORK FOR: ECC INTERNATIONAL CORP., WHICH HE DISCOVERS OPERATES A FRAUD PLAGUED "HOSTILE WORK ENVIRONMENT"; HE REFUSES TO PARTICIPATE IN **fraud by Company and Managing Agents; fraud which would violate 18 U.S.C. 1001 (1988), AND REHMAN IS COMPELLED BY PUBLIC POLICY TO DISCLOSE THE FRAUD**

(SEE ANALYSIS ON NEXT PAGE)

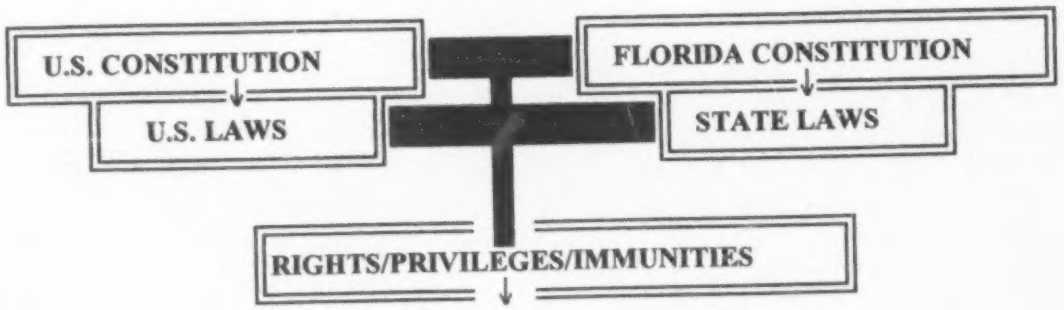
BUT AS A DIRECT RESULT HE SUFFERS:

demotion	isolation	harassment	termination	financial damages	career loss

REHMAN MADE TO SUFFER AS A RESULT OF OBEYING PUBLIC POLICY MANDATES

Case Nr. 94-1586 (Fla. 9th Cir)
Case Nr. 95-1758 (5DCA)

DIAGRAMMATIC "TRACEABILITY" FOR FLORIDA CITIZEN'S RIGHTS UNDER COMMON LAW OF FLORIDA [5DCA CASE NUMBER 95-01758]



ALL OF WHICH MAKES AS A CONSEQUENCE:

A PARTIAL UNCONSTITUTIONALITY OF THE FLORIDA AT-WILL-EMPLOYMENT DOCTRINE
(Because the Doctrine as presently exists is given the same effect as Florida Law, but can be used by Florida Employers to suppress the Constitutional Rights enumerated above.